

**FILED**

JAN 12 2011

**Board of Vocational Nursing  
and Psychiatric Technicians**

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8  
9 BEFORE THE  
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS  
10 DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA  
11

12 In the Matter of the Accusation Against:

Case No. PT-2007-2947

13 YOLANDA G. VALLE  
14 933 Capital Street  
Costa Mesa, CA 92627

A C C U S A T I O N

15 Psychiatric Technician License No. PT 32222

16 Respondent.  
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18 Complainant alleges:

19 **PARTIES**

20 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in  
21 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric  
22 Technicians, Department of Consumer Affairs.

23 2. On or about June 30, 2004, the Board of Vocational Nursing and Psychiatric  
24 Technicians issued Psychiatric Technician License Number PT 32222 to Yolanda G. Valle  
25 (Respondent). The Psychiatric Technician License was in full force and effect at all times  
26 relevant to the charges brought herein and will expire on August 31, 2011, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 4501.1 of the Business and Professions Code (Code) states:

Protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

5. Section 4520 of the Code provides, in pertinent part, that the Board may discipline any licensed psychiatric technician for any reason provided in Article 3 (commencing with section 4520) of the Psychiatric Technicians Law (Section 4500, *et. seq.*)

6. Section 118, subdivision (b) of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 4545 of the Code, the Board may renew an expired license at any time within four years after the expiration.

## STATUTORY PROVISIONS

7. Section 4521 of the Code states:

The board may suspend or revoke a license issued under this chapter for any of the following reasons:

(a) Unprofessional conduct, which includes, but is not limited to, any of the following:

(1) Incompetence or gross negligence in carrying out usual psychiatric technician functions.

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## REGULATIONS

8. Section 2576.6 of the California Code of Regulations states:

(a) A licensed psychiatric technician shall safeguard patients'/clients' health and safety by actions that include but are not limited to the following:

1 (1) Reporting to the Board acts specified in Section 4521 of the  
Business and Professions Code;

2 (2) Documenting patient/client care in accordance with standards of  
3 the profession; and

4 (3) Performing services in accordance with Section 125.6 of the  
Business and Professions Code.

5 (b) A licensed psychiatric technician shall adhere to standards of the  
6 profession and shall incorporate ethical and behavioral standards of professional  
practice which include but are not limited to the following:

7 (1) Maintaining current knowledge and skills for safe and competent  
8 practice;

9 (2) Maintaining patient/client confidentiality;

10 (3) Maintaining professional boundaries with the patient/client;

11 (4) Abstaining from chemical/substance abuse; and

12 (5) Cooperating with the Board during investigations as required by  
Section 4521.2 of the Business and Professions Code.

13 (c) A violation of this section constitutes unprofessional conduct for  
14 purposes of initiating disciplinary action.

15 9. Section 2577 of the California Code of Regulations defines gross  
16 negligence:

17 As set forth in Section 4521 of the code, gross negligence is deemed  
unprofessional conduct and is grounds for disciplinary action. As used in Section  
18 4521 "gross negligence" means a substantial departure from the standard of care  
which, under similar circumstances, would have ordinarily been exercised by a  
19 competent licensed psychiatric technician, and which has or could have resulted in  
harm to the consumer. An exercise of so slight a degree of care as to justify the  
20 belief that there was a conscious disregard or indifference for the health, safety, or  
welfare of the consumer shall be considered a substantial departure from the above  
21 standard care.

22  
23 10. Section 2577.1. of the California Code of Regulations defines  
24 incompetence:

25 As set forth in Section 4521 of the code, incompetence is deemed unprofessional  
conduct and is grounds for disciplinary action. As used in Section 4521, "incompetence"  
26 means the lack of possession of and the failure to exercise that degree of learning, skill,  
care and experience ordinarily possessed and exercised by responsible licensed psychiatric  
27 technicians.

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## **COST RECOVERY**

11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

### **FIRST CAUSE FOR DISCIPLINE**

(Unprofessional Conduct Gross Negligence and Incompetence)

12. Respondent is subject to disciplinary action under Code section 4521(a)(1) in that she was grossly negligent and demonstrated incompetence as set forth below:

13. Respondent began working at Fairview Developmental Center (FDC) on May 1, 1999 as a psychiatric technician. Respondent worked with clients with serious disabilities.

14. Aaron was a 25 year old client at the FDC with an IQ of 30 who also had a seizure disorder. Aaron had an Individual Program Plan that required him to have 1 to 1 supervision during bathing due to his seizure disorder.

15. On June 23, 2007, Respondent was working the evening shift at the FDC from 2:30 p.m. to 11:00 p.m. At approximately 9:00 p.m. Aaron asked Respondent if he could take a bath. Respondent agreed to the bath. Respondent did not ask any other staff persons to stay with Aaron during his bath, or to stay with the other clients while she supervised Aaron's bath.

16. Shortly after 9:00 p.m. Respondent washed Aaron's hair while he was in the bathtub, then she left him alone in the tub while she checked on other clients. Respondent returned after approximately five minutes and Aaron was still in the bathtub. Respondent left the bathroom again with Aaron alone in the tub to check on other clients and again returned about five minutes later and discovered Aaron lying in the bathtub, unconscious and not breathing. When Respondent saw Aaron under the water and not moving, she held his head above the water and blew a whistle she had around her neck. Other staff persons responded to the whistle and assisted Respondent in removing Aaron from the bathtub. CPR was started, a physician came on the scene and paramedics were called. Aaron was not able to be resuscitated and was pronounced dead at 9:46 p.m. The cause of death was drowning.

17. Respondent was terminated from her employment at the FDC based upon her failure to provide Aaron with 1 to 1 supervision during his bath resulting in his death by drowning.

### SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Failure to Safeguard a Client's Health or Safety)


18. Respondent is subject to disciplinary action under Code section 4521(a) in that she failed to safeguard a client's health and safety, as is required under California Code of Regulations section 2576.6, as set forth above in paragraphs 11 through 17.

### PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians issue a decision:

1. Revoking or suspending Psychiatric Technician License Number PT 32222, issued to Yolanda G. Valle
2. Ordering Yolanda G. Valle to pay the Board of Vocational Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: January 12, 2011

  
TERESA BELLO-JONES, J.D., M.S.N., R.N.  
Executive Officer  
Board of Vocational Nursing and Psychiatric Technicians  
Department of Consumer Affairs  
State of California  
Complainant

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